

City of Hampton, VA

Meeting Minutes City Council

22 Lincoln Street Hampton, VA 23669 www.hampton.gov

W. H. "Billy" Hobbs, Jr. Will Moffett Chris Snead Christopher G. Stuart Donnie R. Tuck George E. Wallace

Molly Joseph Ward, Mayor

Staff:

Mary Bunting, City Manager Cynthia Hudson, City Attorney Katherine K. Glass, CMC, Clerk of Council

Wednesday, September 12, 2012

5:59 PM

Council Chambers, 8th Floor, City Hall

CALL TO ORDER / ROLL CALL

MOLLY JOSEPH WARD PRESIDED

PRESENT: W. H. "Billy" Hobbs, Jr., Will Moffett, Chris Snead, Christopher G. Stuart,

George E. Wallace

ABSENT: Donnie R. Tuck

Mayor Ward welcomed everyone to the Public Comment Period.

Councilman Tuck was not present at the time of roll call; however, arrived shortly thereafter at 6:02 p.m.

Clerk of Council Ms. Katherine Glass read the protocol for the Public Comment Period.

PUBLIC COMMENT

Mr. Frank Belton, Director of Newtown Junior Golf Program, 16 Pratt Street, made the following statement: I want to bring my thanks to the Mayor, the City Attorney and all of Council. Our program was a success this year. Even though we had a few glitches and bugs, we worked them out. City Council was instrumental in helping our organization get off to the right start and the right finish. We finished at the Hamptons Golf Course. Thanks to you (guys), we were looking toward the Ladies' Professional Golf Association (LPGA), but we got in late. Nevertheless, we look forward to next year being a bigger, brighter, better and more successful program with the Newtown Junior Golf Program. Once again, to the City Council and to the Mayor and City Attorney, I thank each and every one of you for doing your part in allowing our program to continue. Thanks a lot.

Mr. Frank Ottofaro, Jr., 341 Wrexham Court, greeted those on the dais and made the following statement: I am here to represent my dad tonight and to continue his 12 year fight with the City of Hampton to correct the wrong that was done against him and his family. He gave 12 (years) of his life trying to right the wrong that was done against him. I have two items this evening. This City Council can and should correct any wrong that

was committed against one of its citizens. In our particular case, the City misused its granted power of Eminent Domain and took this family's rightful property from us for a private road going to a private development known as the Power Plant of Hampton Roads. Until the City accepted that road as a public road, it was a private road when it was built – it was in court testimony to that effect as well. To correct this wrong, the Ottofaro family is owed the remaining \$240,000 plus 12 and ½ years of accrued interest since that time, then all of us (including this family) can rest and move forward with other things that the City would like to do and what we would like to do with our lives. There are either law followers or there are law breakers. There is no in-between. You are either following the rules or you are not. Anybody who thinks differently, you are wrong. The law was broken here. It was misused in the wrong way. Everyone knows this. I'm not blaming anybody on City Council, except for one of you. You have an opportunity to make this right – even the two new folks. Whether you do it, that is on your own conscience, but I would expect that you would do it.

Mr. Ottofaro continued his statement on another topic: In July of this year, I requested (formally) that an agenda item be placed on the agenda asking that the Power Plant Parkway name going to the Power Plant of Hampton Roads be changed to Frank J. Ottofaro Memorial Parkway. I am looking at tonight's agenda and I don't see it on tonight's (agenda). I did request for it to possibly be done, to put it on the August or September agenda. I missed last month's meeting; that was my fault, but I am not seeing it on this agenda either. Is there a reason why this wasn't done? You are not going to consider it, are you? I grew up here. I have been here 51 years; born and raised in Hampton. I am a Hampton taxpayer. I own multiple properties myself. I would think I could get something put on the agenda. I was serious about it. I am again asking that it be put on the agenda. It (the street name) has been changed three times. My dad earned that right. You've got City employees who aren't passed away that have names of streets after them. I think he earned it. That's all I have to say. Thank you for your time. Do I have a reason why it wasn't put on the agenda?

Mayor Ward noted that City Attorney Hudson would explain the process of getting items placed on the agenda to Mr. Ottofaro after the meeting.

Mr. Bill Verebely, 2200 Dunbarton Drive, greeted those on the dais and made the following statement: I am here representing two partners of mine. We purchased a piece of land here in Hampton for development. Back in 1987, you passed an Ordinance in reference to small lots - lots that are 25 feet and smaller. In 2003, we purchased a lot which we found out (now) should have never been sold. We applied for a building permit. We went to the Board of Zoning Appeals (BZA) and were turned down in both cases. The Chairman at that time was Mr. Tom Savage. He asked the rest of the members of the Committee, why this issue was not somehow flagged in the City records - either in the tax records or the courthouse records so that a title search would have shown that this lot should have never been sold because it was owned by the adjacent land owner. The problem we have now is we've owned this lot since 2003, and to us it amounts to a taking. I think the (City) Attorney will understand that. We pay taxes on it. We cut grass. We can't do anything with it. Just recently, you garnished one of my partner's wages for about 6 months to a year's back taxes. We can't hold onto this lot forever and do nothing with it. We need some kind of relief from the City of Hampton. I thank you for your time.

Mayor Ward suggested Mr. Verebely speak with the City Attorney after the meeting for clarification regarding the Ordinance. Mr. Verebely stated he is an architect and understands the Ordinance and deals with this all of the time, but because the tax records don't reflect this, the title searches show liens etc.

Mayor Ward noted that her intent was not to begin a back and forth conversation; instead, it was to advise Mr. Verebely to speak with the City Attorney after the meeting.

Mr. Robert Mallory, 101 Maywood Drive, greeted those on the dais and made the following statement: I am here representing the ownership and the management of Westwood Apartments at 101 Maywood Drive off of Radford Road in Hampton. We are right beside Bethel High School. The issue that I want to bring before you has to do with stormwater drainage in our area, particularly in our apartment complex. Our apartment complex was built in the early 1980's. We started having problems with this in 1989. We have correspondence to City personnel in 1989, 1990 and several correspondences in 2006 after incidents of flooding occurred. Recently on August 11th, 25th and 28th of this year, we had rainfall events and we had flooding in our project. Numerous cars were damaged and totaled. We had some very irate tenants. We have 334 units and around 300 tenants right now. They are very irate. We are paying taxes. We are paying stormwater fees. There is a canal that our stormwater runs into which runs down between our property and Bethel High School and goes behind the Farmington property and makes its way over to Newmarket Creek. We did research on this in 2006 and feel this canal has not been improved through the years to handle new developments that dump into it such as Michaels Woods and the Sherry Dell area and the new school at Bethel High. What I am asking for is that we do something to correct this situation. I think it is more than just our one property. I think it is area-wide. There are some culverts that I believe are not large enough that convey the water from the Farmington canal into Newmarket Creek. I think also that the canal needs to be improved. It may need to be enlarged. What I am asking you to do is to take some kind of action to get this done. I would suggest an outside consultant or engineering firm to look at this to do some studies on the amount of water going into it because we should not be having this kind of flooding. I lived on the property prior to 1989 and we didn't have this kind of thing then. We can't continue with this. I appreciate your time. I would like someone to give me some sort of response as to what you are going to do, please.

Mayor Ward noted that the City Manager would get back with Mr. Mallory.

Ms. Cathy Beaulieu, 103 Cynthia Drive, greeted those on the dais, gave copies of a handout to the Clerk of Council to hand to those on the dais and made the following statement: I have lived at 103 Cynthia Drive in the Northampton area of the City for 21 years. I have never attended a Council meeting; however, I felt it was critical to address the members tonight about the flooding in our neighborhood on the 25th and the 28th of August. I and most of my neighbors here tonight have a drainage ditch behind our property. This ditch is usually weed-eated only at the tops of each side one time a year or if we call to have it cleaned out. I am requesting to have the ditch dug deeper and install at least a four foot pipe in the ditch line. If there is a better solution, we are all ears to hear about a plan. Weed eating only one time a year is unsatisfactory and definitely does not help with the flood waters. On August 25th, I had approximately two feet, three inches of water in my back yard. I called the City to request that someone check for blockages; however, I never saw anyone come to our area probably because they could not get to our area due to quite a few flooded roads. As I was speaking to the

lady on the phone, my husband shouted "I just saw seven minnows swimming by in our driveway". This is totally unsatisfactory. Per the local news stations that night, all that was said about the excessive flooding in Hampton was due to the rain falling so fast, the pumps could not handle the amounts. This was not a hurricane, nor a nor easter; this was just a rain storm. What is going to happen when the City is in the path of one of these events? This is also totally unsatisfactory. On August 28th, two days after the area had excessive flooding, another rainstorm produced more flooding on numerous streets in our neighborhood. This time, the rain line on my back fence measured two feet, five inches. With the grounds being so saturated from the 25th's storm, the water rose more quickly and I could not even get to my house. After trying several different streets, I gave up and went to the Willow Oaks area of Hampton to stay with my mother. She lives close to Little Back River Road and in a flood zone, so I was really unsure if I could even make it (there). What a surprise. The flood zone had no water. It was smooth sailing. Isn't it ironic that I do not live in a flood zone and had 29 inches in my back yard, whereas my mother does live in a flood zone and has no water? Something is terribly wrong with this picture. Also, again on the local news stations, all that was said was the pumps could not handle the quick rain amounts. Again, this is totally unsatisfactory. Each Hampton resident pays a stormwater fee that is supposed to be used for drainage maintenance. The cost, per the City's website, is \$55.20 per year. I understand that that is not a big amount; however, I would think it would at least pay for an employee to maintain our drainage ditch or even assist in the digging of a deeper one for our neighborhood. We are desperate for a solution in our area.

Mayor Ward noted the City Manager would get back with Ms. Beaulieu regarding the drainage ditch behind her property. She stated it may be hard to believe; however, we were told that it was a bizarre confluence of events in a 100 year flooding event. She said we obviously have flooding issues just like every other locality in the Hampton Roads area. She stressed this was different from a Nor'easter or Hurricane in that it created flooding in areas of Hampton that we had never seen before and found the same true for the City of Newport News. She added we take it very seriously and she is sure the Manager will look into it.

Ms. Beaulieu noted she would be more than happy to sit on any committee to help alleviate this problem.

Vice Mayor Wallace reminded everyone that a citizen group has been looking into this situation for over 1 and ½ years and has had discussions with consultants and engineers. He said that information will also be brought to bear in responding to the situation. He added that he lives in Northampton adjacent to the ditch and also had 3 inches of water in his garage, and therefore, no one is immune to the problem.

Ms. Bunting noted we spent approximately \$750,000 a few years ago to improve and add capacity to the Farmington Canal that feeds into the Newmarket Creek and the Government Ditch. She explained the Government Ditch overflowed which pushed into the Newmarket Creek which pushed into the Farmington Canal which pushed into the neighborhoods causing some areas to have six inches of rain in an hour. She noted that the systems were not designed to handle that kind of rainfall.

Vice Mayor Wallace added this shows that no good deed goes unpunished. He said when we made that improvement on the Farmington ditch, we received grief from individuals in terms of widening and deepening it because we had to remove trees and

other shrubbery around the area which meant it was not as pretty, but was functional. He stated even with that capability we could not accommodate that volume of water in a short period of time.

Ms. Joanne Morse, 121 Reflection Lane, greeted those on the dais and handed a book to the Clerk of Council for the members of Council to read. She noted the book is regarding agenda 21 and sustainable development. Ms. Morse then made the following statement: I don't know how many of you are aware or not aware of the connection between the UN agenda 21 and what is going on in our City as far as sustainable development. There is a lot to it. It is not bipartisan. It is not Republican or Democrat. This is strictly citizen interest. I appreciate you reading the book and I would be thrilled if you would call me so that we can get together to talk about how we can approach the issues that are addressed in this book. I thank you for your time.

Mr. Steven Brown, 81 Michaels Woods Drive, greeted those on the dais and made the following statement: I love this City. I am here tonight to talk about something that I have never addressed the Council with or about - that is the flooding issue. When we had the massive rain, I got up that morning and I think I live in the higher elevation in the City; I had never seen flooding on the street in that magnitude. There were Sports Utility Vehicles (SUV's) literally under water. As I got up that morning to take my son to work, I took my wife's car because her car sits higher than mine. I could not come back home, so I went out to breakfast and waited almost 3 hours for the water to recede. I understand that the water was coming so fast that the system could not maintain or hold it, and over time since another storm happened, the water level kept increasing. My concern is we have had study after study; I have been to so many meetings about flooding; the Corps of Engineers has been here; we have paid our engineers to do various studies; we have had a Waterways Committee present to you (Council) and make recommendations, and I read in the paper approximately two weeks ago that there was a particular community in Newport News that had massive flooding. Hampton Roads Sanitation District (HRSD) is partnering with this particular community to help mitigate some of the flooding. I would love to talk to you off line about thinking about a regional approach to flooding. I know some years ago during Council races, we talked about flood mitigation, why don't we look at a regional approach? Why won't our Manager, Ms. Bunting and Mr. Neil Morgan of Newport News consider working together? I think we are stronger when we work together. There may be Federal monies available. There may be grants available. I think we should put our agendas aside and don't worry about who is going to get the credit and just get the job done. I am very disturbed tonight about that morning when I got up and saw the rain and saw people struggling and saw people who lost their cars. It is depressing. My sister lives in the City Line Apartments in Newport News on the line. She was evacuated twice in four days. She is a disabled citizen. The first time they had major flooding in that area, she lost a car. It is a blessing that she lives on the second floor. It is very distressing to move elderly people who live in Paula Maria Apartments. It is costly to get first responders out to help people leave their places where they are comfortable. It disrupts their whole life. I know it is going to be a major project and I have heard the numbers. Please listen and consider this. This is a serious problem. Thank you.

Mayor Ward noted the Manager advised us at the afternoon session that she has been working with Newport News City Manager Mr. Neil Morgan cooperatively as Mr. Brown suggested. She added we are members of the Hampton Roads Planning District

Commission (HRPDC) which tries to bring a regional approach to these issues. She further noted that two members of Council sit on the HRPDC.

Mr. Hugh Bassette, 117 Rip Rap Road, greeted those on the dais and made the following statement: I am representing the Old Northampton Community. I want to talk to you about crime. The last time we were here, we were talking about closing the Langley Shopping Center Police Precinct and we told you that crime was going to go up. On August 29th, we had one of our residents shot down on Bethel Avenue. The 1100 block of Bethel Avenue is a cancer in Old Northampton and it is a cancer in this whole City. If you don't start doing something to correct that situation, it is not just going to stay in the 1100 block of Bethel Avenue; it is going to spread. Mr. Wallace, you need to pay particular attention to it because when you become Mayor, if this crime problem is not addressed, they are going to say George Wallace got to be Mayor and this City fell apart. You and the other members of Council, particularly you though, need to get a head start on this. Do not wait until this gets so far down the road that it cannot be reversed. We are saying something needs to be done in the 1100 block of Bethel Avenue. We have two suggestions. One, you (Council) ask the City Attorney to send a certified letter to every homeowner or resident on that street to tell them we have had problems on this block and if those problems emanate from your property, we will declare your property a public nuisance and appropriate legal steps will be taken - just as you did with a property on Quash Street which is one block over. Do not let these people run our neighborhoods and say "that is just in Old Northampton, so we don't have to worry about it". Those criminals are not going to just stop in Old Northampton. To those people who live behind gated communities thinking you are safe - you have to come from behind those gates sooner or later. Your kids have to come out. You have to go to the grocery store. You have to go to church. It is not going to stay in the 1100 block of Old Northampton. Two, I think you need to take a further step in community policing. We need a police officer assigned there on a permanent basis. That is a part of community policing that Hampton hasn't adopted. Someone we can get to know and someone we can go to like Phil Russell who knows that neighborhood back and forward. If we can get a policeman to develop that kind of rapport with the citizens, it will go a long way to stop crime. Those are two suggestions to deal with this issue. When we had the meeting Councilman Moffett was there and City Manager Bunting was there. One of the main topics that citizens brought up during the meeting was Bethel Avenue. Mr. Bassette gave the Clerk a copy of the census report and continued with his statement: Chief Jordan stated Bethel Avenue was a problem when he came on the police force over 20 years ago and it is still a problem. We want a police officer assigned there and where the McDonalds is on Queen Street and LaSalle Avenue.

Mr. Raynard Vinson, 112 Ethel Drive, greeted those on the dais and made the following statement: I am here to speak on the flooding in the City also. I have contacted the City multiple times, and all I am ever told is that improvements have been made at Factory Point. These last two flooding incidences have proven that the drainage problem is not only in Newmarket Creek; it is insufficient from the neighborhood to the creek also. I lost a vehicle this time around. I have lost an air conditioner. I have had damage to my home. I have a list of campaign promises (of everybody sitting on Council) that I pulled off of the internet. I could go down the list. I know that this is a regional problem, but there are people sitting on this Council right now that say their specialty was getting together with the other regions to solve our issues. We have got to do something about this. There are many people in this room right now from my community. The only reason they will not speak tonight is because the cards were pulled before they could

sign one to speak. I'm not asking you to perform any kind of miracles. All I am saying is you have engineers on staff. Figure out a solution. Let us know what it will cost and see if the citizens will bear that cost. Thank you for your time.

Mr. Edwin Boone, 48 Snow Street, greeted those on the dais and recited a poem written by himself entitled "Insight". A copy of the poem is attached to the minutes. Mr. Boone then made the following statement: In my existence, I have had two heart attacks, six bypasses and my cataracts removed. Right now, President Obama is running for reelection. We need to get involved. We need to stand fast. We need to get out and vote. Recently, the newspaper wrote an article on me dated August 16, 2012, "Resident's Poetry Aims to Inspire". Mr. Boone read a portion of the article which stated "People need to know the power is in their own hands" and then continued his statement: I am talking to the hearts, minds and souls of the citizens of the United States that have the opportunity to vote. Here is a copy of "Insight" right here that I have asked the City Council to put up on the screen, yet they refuse to do it. I am appealing to the physical being. We are all going to pass away one day. We are all going to die. When I was in California, I had "Insight" done in braille. Again, I am appealing to the hearts, minds and souls of the citizens of the United States to get involved. We not only need to get President Obama re-elected, but we need to have the Democrats and the Senate to back his decisions. This is in response to the Republicans who are raising over \$1 billion. I would like to use this in response to their \$1 billion to raise more than that and be the one to put insight on the stage.

Mayor Ward thanked Mr. Boone for his comments informing him that his speaking time had expired.

Mr. David Deitrich, 139 Wilderness Road, greeted those on the dais and made the following statement: It is good to see a couple of new members on the Board, Mr. Hobbs and Ms. Snead, I thank you for your service so far as much as I know about it. I am here tonight to speak about public responsibility and awareness; in particular, public safety and emergency management, and the roles of City Council and the City Manager in that regard. I have been before the Council on several occasions before this, and the responsibilities as I understand them are: City Council appoints the City Manager according to the City Charter. The City Manager appoints the Police Chief and the Emergency Management Officer (if that is his title). The Police Chief has powers and duties as provided by the general laws of the Commonwealth and by Ordinances of the City Council. That is where the City Council also plays a part. The Emergency Management Officer has planning and coordinating responsibilities for all natural or manmade emergencies and disasters that may occur within the City. Regarding the Police, I have several questions for you, Ms. Bunting. (Mr. Deitrich gave a copy of the list of questions to the Clerk of Council). 1. Who has Senior Law enforcement authority in the City of Hampton? 2. Who determines the authority of State and Federal officials within the City of Hampton? 3. What is the position of the Hampton Police regarding the passage of Virginia House Bill 1160 in response to the 2012 National Defense Authorization Act which allows for warrantless apprehension and indefinite detention of American citizens? My question is what is the position of the City Manager and the Chief of Police in that regard? 4. Who has senior Emergency Management authority in the City of Hampton? 5. Who determines the authority of State and Federal officials in Hampton? 6. What are the emergency plans for Hampton? (flooding, hurricanes, tornados etc.) 7. Where are they posted for the public to review and prepare for? I think these are important questions and the answers should be available to the public

and we can have further discussion so that we are all better prepared for what is going on in our community.

Mr. Dietrich noted his contact information is on the document he gave to the Clerk and he would appreciate a response.

Mr. John Krulis, 3631 Chesapeake Avenue, greeted those on the dais and made the following statement: Uncharacteristically, I am here to thank you tonight. Your recent Ordinance for non-tethering of dogs is very important to me. About 25 years ago, I had another house near to where I live - rest assured it is not my current address. My next door neighbor acquired it finally. Sixteen adult pit bulls (were previously there); all sixteen were tethered. I must say that the City was zero aid in that situation. The only aid I received whatsoever was from the Society for the Prevention of Cruelty to Animals (SPCA). Even the Police Department was unwilling to get out of their cars. There had been a recent incident when an officer had to call for back up because a pit bull had taken out his cruiser - it bit the tires. Codes and Compliance - zero (aid). The Fire Department would come when the man would set fire to the wetlands, but that was about it. The City was of no assistance whatsoever. This Ordinance passed as it is and I am hugely thankful to you for it. It needs to be properly taken care of. I don't know who is going to do that, but it needs to be done. I am not too optimistic. The Ordinance goes into effect in January as I understand it and there will be a timeframe when people will be advised of their noncompliance. Your contract with the SPCA goes to June as I understand it. The new facility is not going to be ready. You will have abandoned dogs in the City. That is an unintended consequence that you really have to address.

Mr. Krulis continued his statement on a different subject: I have huge respect for people in uniform. Every single time I see one in the store, on the street, in their cruiser or fire truck, I thank them as well as all of our military. Whoever is giving the instructions to the present officer in charge (at the Council meeting) to intimidate people. I used to see it done to Frank Ottofaro repeatedly. I think it is very objectionable. I don't know what else I need to say tonight, but I find that objectionable. She is under orders. It is not (just) she, it is also others that have gone before. Tonight, was anybody else offended by that? I am offended. I am offended. Thank you very much.

Mayor Ward called for additional speakers from the audience. There were three additional speakers.

Ms. Laurene Bunch, 114 Ethel Drive, greeted those on the dais and made the following statement: As a resident of Hampton, we have been in the flood zone since 1999. Every time a hurricane, nor'easter or flash flood comes, it affects my mother's home which is her home. She is unable to get out. The Fire Department was very happy to come out on August 28th to try to assist her. I noticed that a lot of people are dropping trash in the creek behind our property. When you say call 311 to come out to check the neighborhood, I don't know if they are coming this year or if they plan on coming next year. They have been very busy and have not been able to come out to check. I've asked if you need to come across the property line, feel free to come across the property line at any time. It is a fenced in neighborhood, but you can come on our property; we have no problem with you doing that. I have seen people throw trash out there. I've asked for the City to come out to look at that because all of that trash adds to the fact that we are having flooding, not only from the drainage, but we are having flooding from the Newmarket Creek behind our home. When you go to your insurance company, one

action leads to another and your insurance goes up. Every time there is a flood or you have to call your insurance company, they eventually will increase the cost of your insurance. If they could give us some consideration and come out to see the things you could do in the neighborhood to clean it up. Thank you.

Ms. Elizabeth McCoury, Executive Director of the Coliseum Central Business Improvement District (BID), 4410 E. Claiborne Square, 211, thanked Council for its service to the citizens and reminded everyone about the Neighborhood Night Out Health and Safety Fair to be held Saturday, September 15, 2012, from 3:00 to 6:00 p.m. at the Peninsula Towne Center parking lot between Target and Outback Steakhouse. She noted the Hampton Police, Fire and Sheriff Departments will all be represented. She stated many businesses will offer health screenings and Sentara Careplex will be the presenting sponsor again this year. She noted if anyone has questions about the event, they may call the Coliseum Central BID office at 757-826-6351.

Ms. Tameka McNair, 305 Duluth Court, greeted those on the dais and made the following statement: I have been at my residence for a little less than five years. If I had known what I know now, I don't think I would have bought that house because this is the third time it has flooded. The first time was in 2009 when we had the nor'easter and I lost a lot of my property along with my air conditioning and heating unit which I had to replace in addition to my roof due to the wind. Now, this is a replay of all of that. On Tuesday, the Fire Department had to evacuate my children out of the house because I could not get to my children. I would be pleased if you all could find some way to alleviate this because if my kids are home and I cannot get to them that is not good for me. Thank you very much.

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	Molly Joseph Ward Mayor	
Katherine K. Glass, CMC Clerk of Council		
Date approved by Council		

The meeting adjourned at 6:41 p.m.



Istand in a glaring Light.
It stares at the Truth.
There are no shadows or
Obstacles that blind Me.
I am called Insight.

I see what others are blind to.

I do not elude the pathway

That leads Me. I travel on a

Path that others dare to follow.

I am not obscured by the shadows.

I seek a friend called Truth.

The Light shines so bright when Truth Is in sight. It is only He that knows The answer.

Truth waits in the darkness.

It is only He that sees the Light.

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